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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,895	03/02/2004	Mikhail Lotvin		2673
33283	7590	03/02/2010	EXAMINER	
RICHARD MICHAEL NEMES 754 WEST BROADWAY WOODMERE, NY 11598-2948				LEVINE, ADAM L
ART UNIT		PAPER NUMBER		
3625				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/790,895	LOTVIN ET AL.	
	Examiner	Art Unit	
	ADAM LEVINE	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 October 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 13-15,33-35,37,38,40,41,47-50 and 52-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 13-15,33-35,37,38,40,41,47-50 and 52-56 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

In view of the Appeal Brief filed on October 7, 2009, PROSECUTION IS HEREBY REOPENED.

Applicants filed an appeal brief dated October 7, 2009. Arguments presented therein were responsive to the final office action dated December 11, 2008. The December 11, 2008, office action was made final because the newly relied upon prior art was necessitated by amendment. In response to the arguments presented in the appeal brief filed October 7, 2009, the finality of the prior office action is withdrawn and prosecution is hereby reopened. Claims 13-15, 33-35, 37-38, 40-41, 47-50, and 52-56 are currently pending and considered in this office action.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Jeffrey A. Smith/

Supervisory Patent Examiner, Art Unit 3625

Response to Arguments

Pertaining to rejection under 35 USC 103(a) in the previous office action

Applicants' arguments, see brief, filed October 7, 2009, with respect to the rejection(s) of claim(s) 13-15, 33-35, 37-38, 40-41, 47-50, and 52-56, under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Shaffer et al. (Paper # 20080408; US Patent No. 6,434,222 B1) and Weller et al. (US Patent No. 6,266,399 B1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 1. Claims 13-15, 33-35, 47-49, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. (Paper # 20080408; US Patent No. 6,434,222 B1) in view of Weller et al. (US Patent No. 6,266,399 B1).**

Shaffer teaches a computer-implemented method for automated multimedia messaging system information updating. For example, Shaffer discloses a method comprising using an Internet browser (see at least column 3 lines 58-65). Shaffer further discloses:

- using an Internet browser: enabling an end user to specify telephone service logic comprising specification for at least voice mail (see at least figs. 1-9, column 1 lines 12-25, column 3 line 58 – column 5 line 25);
- electronically providing information representing the service logic: to at least one computer controlling telephone service so as to enable the at least one computer controlling telephone service to control telephone service in accordance with the service logic (see at least figs. 1-9, column 1 lines 12-25, column 3 line 58 – column 5 line 25, column 7 lines 14-17); wherein the at least one computer controlling telephone service is a telephone company computer (column 2 lines 34-66); wherein the at least one computer controlling telephone service is end users' local computer (column 1 lines 10-25, column 2 lines 34-66); enabling the end user to use voice input to specify the telephone service logic, wirelessly from a portable device (see at least column 3 lines 10-27. Please note: applicants have also admitted that this feature is old and well known. See remarks filed September 9, 2008, page 6);

Shaffer discloses all of the above as noted and teaches a) allowing the user to create and record one or more default configurations, b) monitoring usage of default and predetermined settings, and c) routing incoming calls based on when they are

received, but does not explicitly disclose different outgoing messages selected based on time of an incoming call and caller ID.

Weller teaches a) allowing the user to create and record one or more default configurations, b) monitoring usage of default and predetermined settings, c) creating a variety of different outgoing messages, and d) enabling the end user to provide the service logic wirelessly from a portable device (see at least column 2 lines 31-39), and Weller further discloses:

- different outgoing messages selected based on: time of an incoming call (see at least figs. 3-6, column 1 lines 5-10, 42-60; column 4 lines 1-7); incoming caller ID (see at least abstract, figs. 2-3, column 1 lines 5-10, 25-38).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Shaffer to include different outgoing messages selected based on time of an incoming call, as taught by Weller. Doing so would merely be including a known voicemail function into a voicemail configuration method in order to further exploit the already existing technology by increasing its utility to its users thereby promoting greater use of the method in commerce.

Pertaining to system claim 33

Rejection of claim 33 is based on the same rationale as noted above. In addition, Shaffer discloses:

- memory: (see at least fig. 2, column 3 lines 1-10, 27-40; column 4 lines 23-59).

2. Claims 37-38, 40-41, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer in view of Weller as applied to claims 13 and 33 above, and further in view of Lim et al. (US Patent No. 5,883,942).

Shaffer in view of Weller teaches all of the above as noted in the above rejection under 35 USC 103(a). Shaffer in view of Weller teaches a) allowing the user to create and record one or more default voice mail configurations, b) monitoring usage of default and predetermined settings, and c) routing incoming calls based on when they are received. Shaffer in view of Weller further teaches d) determining different methods for handling a call based on caller ID. Shaffer in view of Weller does not however disclose a specification for call waiting including a specification for which incoming calls the on-going call is to be interrupted.

Lim also teaches a) allowing the user to create and record one or more default voice mail configurations, b) monitoring usage of default and predetermined settings, c) routing incoming calls based on when they are received, and d) determining different methods for handling a call based on caller ID, and Lim further teaches prioritizing calls based on caller ID and blocking calls based on caller ID (see at least abstract). In addition, Lim discloses:

- call waiting including: a specification for which incoming calls the on-going call is to be interrupted (see at least abstract, fig. 2, column 2 lines 55-67, column 3 lines 5-10); blocking incoming calls based on caller ID (see at least abstract, fig. 5, column 2 line 55 – column 3 line 10); specification of relative priority of caller ID'S, so as to determine, by comparing priority of caller ID of an incoming call

with priority of caller ID of an on-going call, whether to provide a call waiting notification for the incoming call or direct the incoming call to voice mail (see at least abstract, fig. 2, column 2 line 55 - column 3 line 17).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Shaffer in view of Weller to include prioritizing and blocking calls based on caller ID, and the noted call waiting functionality, as taught by Lim because doing so would merely be including known voicemail functions into a voicemail configuration method in order to further exploit the already existing technology by increasing its utility to its users, thereby promoting greater use of the method in commerce.

3. Claims 50 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer in view of Weller as applied to claim 13 above, and further in view of Kinoshita (US Patent No. 6,493,548 B1).

Shaffer in view of Weller teaches all of the above as noted in the above rejection under 35 USC 103(a). Shaffer in view of Weller teaches a) allowing the user to create and record one or more default voice mail configurations, b) monitoring usage of default and predetermined settings, and c) routing incoming calls based on when they are received. Shaffer in view of Weller further teaches d) determining different methods for handling a call based on caller ID, and e) requesting information by the end user over the Internet. Shaffer in view of Weller does not however disclose receiving data at the portable device based on a location of the portable device.

Kinoshita also teaches a) allowing the user to create and record one or more default voice mail configurations, b) monitoring usage of default and predetermined settings, c) routing incoming calls based on when they are received, and d) determining different methods for handling a call based on caller ID, and Kinoshita further discloses receiving data at the portable device based on a location of the portable device (see at least abstract, fig. 2, column 2 lines 60-65, column 4 lines 24-33). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Shaffer in view of Weller to include receiving data at the portable device based on a location of the portable device, as taught by Kinoshita because doing so would merely be including one voicemail function known in the art into another prior art voicemail configuration method in order to further exploit the already existing technology by increasing its utility to its users, thereby promoting greater use of the method in commerce.

4. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer in view of Weller as applied to claim 13 above, and further in view of Srinivasan (US Patent No. 5,754,630).

Shaffer in view of Weller teaches all of the above as noted in the above rejection under 35 USC 103(a). Shaffer in view of Weller teaches a) allowing the user to create one or more default configurations, b) monitoring usage of default and predetermined settings, and c) routing incoming calls based on when they are received. Shaffer in view of Weller does not however disclose use of different carriers during different time

periods. Srinivasan also teaches a) allowing the user to create one or more default configurations, b) monitoring usage of default and predetermined settings, and c) routing incoming calls based on when they are received, and Srinivasan further teaches use of different carriers during different time periods (see at least column 5 lines 4-23, column 11 lines 13-33, column 14 line 52 – column 15 line 10). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Shaffer in view of Weller to include use of different carriers during different time periods, as taught by Srinivasan because doing so would merely be including one voicemail function known in the art into another prior art voicemail configuration method in order to further exploit the already existing technology by increasing its utility to its users, thereby promoting greater use of the method in commerce.

Conclusion

Applicant's amendment made September 9, 2009 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM LEVINE whose telephone number is (571)272-8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571.272.6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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February 24, 2010
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